

PUBLIC CHAPTER NO. 13

HOUSE BILL NO. 418

By Representative Coleman

Substituted for: Senate Bill No. 1598

By Senator Norris

AN ACT to amend Tennessee Code Annotated, Title 31, Chapter 4, relative to the elective share of a surviving spouse.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 31-4-101(b), is amended by deleting the current language in its entirety and by substituting instead the following:

(b) The value of the net estate includes all of the decedent's real property, notwithstanding § 31-2-103, and personal property subject to disposition under the provisions of the decedent's will or the laws of intestate succession, reduced by the following: secured debts to the extent that secured creditors are entitled to realize on the applicable collateral, funeral and administration expenses, and award of exempt property, homestead allowance and year's support allowance. The net estate does not include any assets over which the decedent held a power of appointment, whether exercised or not, unless the decedent exercises the power of appointment to direct the assets to be paid to the decedent's personal representative for administration as part of the decedent's probate estate.

SECTION 2. Tennessee Code Annotated, Section 31-4-101(c), is amended by deleting the current language in its entirety and by substituting instead the following:

(c) After the elective-share amount has been determined in accordance with the foregoing subsections (a) and (b), the amount payable to the surviving spouse by the estate shall be reduced by the value of all assets includable in the decedent's gross estate which were transferred, or deemed transferred, to the surviving spouse or which were for the benefit of the surviving spouse, but excluding the homestead allowance, exempt property and year's support allowance. For purposes hereof, the decedent's gross estate shall be determined by the court in the same manner as for inheritance tax purposes pursuant to T.C.A. §§ 67-8-301 et seq., except that the value of any life estate or trust for the lifetime benefit of the surviving spouse shall be actuarially determined.

SECTION 3. Tennessee Code Annotated, Section 31-4-101(d), is amended by deleting the current language in its entirety and by substituting instead the following:

(d) The elective-share amount payable to the surviving spouse is exempt from the claims of unsecured creditors of the decedent's estate and, notwithstanding § 30-2-614(b) or (e), shall not be allocated to any United States or any state estate, inheritance or other death transfer tax if the elective share amount qualifies for and is used as a marital deduction in determining the decedent's death tax liability under any applicable estate, inheritance or other death transfer tax statute.

SECTION 4. Tennessee Code Annotated, Section 31-4-102(a)(1), is amended by deleting the current language in its entirety and by substituting instead the following:

(a)

(1) The surviving spouse may elect to take such spouse's elective share in decedent's property by filing in the court and mailing or delivering to the personal representative, if any, a petition for the elective share within nine (9) months after the date of death.

SECTION 5. This act shall take effect July 1, 2007, the public welfare requiring it.

PASSED: March 22, 2007


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES


RON RAMSEY, SPEAKER
SENATE OF THE SENATE

APPROVED this 4th day of April 2007


PHIL BREDESEN, GOVERNOR